

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| TRUSTEES OF THE NEW YORK CITY DISTRICT | : | |
| COUNCIL OF CARPENTERS PENSION FUND, | : | |
| WELFARE FUND, ANNUITY FUND, AND | : | 21-CV-2249 (JMF) |
| APPRENTICESHIP, JOURNEYMAN RETRAINING, | : | |
| EDUCATIONAL AND INDUSTRY FUND, et al., | : | <u>MEMORANDUM OPINION</u> |
| | : | <u>AND ORDER</u> |
| Petitioners, | : | |
| | : | |
| and | : | |
| | : | |
| 4343 CORP., | : | |
| | : | |
| Respondent. | : | |
| -----X | : | |

JESSE M. FURMAN, United States District Judge:

On March 15, 2021, Petitioners filed a Petition to Confirm Arbitration. ECF No. 1. On March 16, 2021, the Court set a briefing schedule for Petitioners' submission of any additional materials in support of the Petition, Respondent's opposition, and Petitioners' reply. ECF No. 7. Petitioners served Respondent with the Petition, supporting materials, and the briefing schedule. ECF No. 8. Pursuant to the briefing schedule, Respondent's opposition was due no later than April 13, 2021. ECF No. 7. On April 15, 2021, the Court entered an Order to Show Cause directing Respondent to show good cause in writing no later than April 22, 2021 why Petitioners' petition should not be deemed unopposed. ECF No. 10. To date, Respondent has neither responded to the petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, "as akin to a motion for summary judgment based on the movant's submissions." *Trs. for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr.*

Corp., No. 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After reviewing the petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

The Court also awards Petitioners' requested attorneys' fees and costs. *See Int'l Chem. Workers Union (AFL-CIO), Local No. 227 v. BASF Wyandotte Corp.*, 774 F.2d 43, 47 (2d Cir. 1985) ("[W]hen a challenger refuses to abide by an arbitrator's decision without justification, attorney's fees and costs may properly be awarded." (internal quotation marks omitted)). Here, Petitioners have met their burden of proving the reasonableness and necessity of hours spent, rates charged, and litigation costs incurred.

Accordingly, the Court grants Petitioners' unopposed petition to confirm the entire Award. Judgment will be entered separately today.

SO ORDERED.

Dated: April 23, 2021
New York, New York

A handwritten signature in black ink, appearing to read 'Jesse M. Furman', written over a horizontal line.

JESSE M. FURMAN
United States District Judge